

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )

KRISTIN BROOKS HOPE CENTER and )  
1-800-SUICIDE )

Petition for Cease and Desist Order and )  
For Sanctions Against Patriot )  
Communications LLC and McLeodUSA )  
Incorporated )

CC Docket No. 95-155

**Patriot Communications LLC's Statement of Intention to File Opposition On  
January 2, 2007 Unless The Commission Establishes A Longer Period For Response,  
Notice of Defective Service And, In The Alternative,  
Request For Extension Of Time**

Patriot Communications LLC ("Patriot") hereby respectfully submits this Statement of Intention to File Opposition on Tuesday, January 2, 2007 Unless the Commission Establishes a Longer Period for Response, Notice of Defective Service and, in the Alternative, Request for Extension of Time in the above-captioned docket.

On December 15, 2006, Petitioner Kristin Brooks Hope Center and 1-800-Suicide (collectively, "KBHC") filed a Petition for Cease and Desist Order and for Sanctions Against Patriot and McLeodUSA Incorporated. On December 19, 2006, KBHC filed an errata to its original December 15, 2006 Petition by electronic mail. On December 21, 2006, KBHC filed a corrected version of the entire December 15, 2006 Petition, including the errata, by regular mail. In its Petition, KBHC requests, among other things, that the Commission "issue a Notice of Apparent Liability against Patriot in the amount of \$15.9 million" for alleged "willful and intentional violations of FCC rules." Petition (Dec. 21, 2006) at ii.

No. of Copies rec'd 0  
List ABCDE

Unless a longer time for response is established by the Commission, on Tuesday, January 2, 2007, Patriot intends to file an Opposition to KBHC's request that a Notice of Apparent Liability issue against Patriot. Tuesday, January 2, 2007 is the first business day that is 10 or more days after KBHC's December 21, 2006 filing of the complete, corrected Petition. 47 C.F.R. §§ 1.4; 1.45.

Neither the original December 15 Petition, the December 19 errata, nor the December 21 corrected petition have been served properly on Patriot. Section 1.47(d) of the Commission's rules provides that "documents may be served upon a party, his attorney, or other duly constituted agent by delivering a copy or by mailing a copy to the last known address." Notwithstanding the requirements of Section 1.47(d), and notwithstanding that KBHC is in possession of (and has attached to its Petition) a copy of a November 28, 2006 letter from the undersigned counsel setting forth all of counsel's contact information, including counsel's mailing address, fax number and e-mail address, counsel for KBHC served the original December 15, 2006 Petition on Patriot by sending a copy to the undersigned by regular mail to the wrong address in San Diego, California. Specifically, counsel for KBHC erroneously addressed the service copy to the undersigned's law offices, Seltzer Caplan McMahon Vitek, at "350 B Street," San Diego, California, instead of using the correct street address of 750 B Street, San Diego, California.

The service copy of the misaddressed original Petition was not delivered to Seltzer Caplan McMahon Vitek until the afternoon of December 20, 2006, while the undersigned counsel was out of the office, and was not read by the undersigned counsel until December 21, 2006. There is no indication that counsel for KBHC has made any effort to serve either the errata to the Petition (filed with the Commission by electronic mail on December 19, 2006) or

the corrected Petition (filed with the Commission by regular mail on December 21, 2006) on Patriot.<sup>1</sup>

For all of the foregoing reasons, and because there is no merit to KBHC's request for relief against Patriot, Patriot intends to file an Opposition on Tuesday, January 2, 2007 setting forth the reasons that the Petition should be denied, unless the Commission indicates that a longer response time is or will be prescribed consistent with the Commission's rules.

In the alternative, if the Commission concludes for any reason that notwithstanding KBHC's failure to file a corrected Petition until December 21, 2006 and KBHC's failure to comply with the Commission's rules governing service, Patriot requires a formal extension of time to file its Opposition on January 2, 2007, Patriot respectfully requests that, in the circumstances presented, the Commission grant such an extension to January 2, 2007 *nunc pro tunc*. Though Patriot does not believe that a January 2, 2007 Opposition would be out-of-time, Section 1.3 of the Commission's Rules allows the Commission to waive its rules "if good cause therefor is shown." KBHC's failure to properly serve its Petition, compounded by KBHC's failure to serve the errata to the Petition, constitute good cause for an extension of the time to file

///

///

///

///

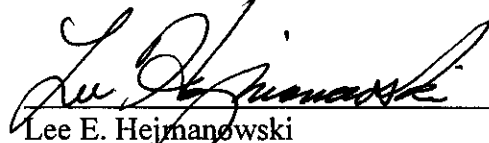
///

---

<sup>1</sup> The undersigned counsel is currently in the process of assisting Patriot in retaining counsel with FCC expertise to represent Patriot in preparing and filing an Opposition to the Petition, a process that has been complicated by KBHC's failure to serve Patriot in a proper and expeditious manner during the year-end holidays. This submission is made without prejudice to or waiver of any defenses that may be available to Patriot in law or in equity.

an Opposition. Moreover, allowing Patriot to file an opposition will serve the public interest by ensuring that the Commission has a complete record upon which to act.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lee E. Hejmanowski", written over a horizontal line.

Lee E. Hejmanowski  
Seltzer Caplan McMahon Vitek  
2100 Symphony Towers  
750 B Street  
San Diego, California 92101  
(619) 685-3043  
Fax: (619) 702-6841

*Counsel for Patriot Communications LLC*

December 26, 2006

## Service List

I, Anette M. Garrity, hereby certify that on December 26, 2006, I caused a true copy of this "Patriot Communications LLC Statement of Intention to File Opposition On January 2, 2007 Unless the Commission Establishes A Longer Period For Response, Notice of Defective Service And, In The Alternative, Request For Extension Of Time" to be filed on the following via U.S. first-class mail:

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554  
(via ECFS)

Janice Myles  
Competition Policy Division  
Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Room 5-C140  
Washington, DC 20554

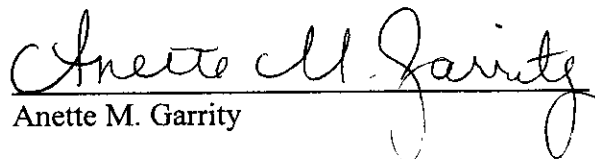
Heather T. Hendrickson  
Competition Policy Division  
Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Mr. William A. Haas  
Vice President and Deputy General Counsel  
McLeodUSA Telecommunications Services,  
Inc.  
6400 C Street, SW  
Cedar Rapids, IA 52406

Rina Hakimian, Attorney  
SAMHSA Team  
Office of the General Counsel  
Department of Health & Human Services  
Public Health Division  
Room 4A-53 Parklawn Building  
5600 Rishers Lane  
Rockville, MD 20857

Danny Adams  
Todd D. Daubert  
J. Isaac Himowitz  
Kelley Drye & Warren LLP  
3050 K Street, NW Suite 400  
Washington, DC 20007  
202-342-8400 (telephone)  
202-342-8451 (facsimile)

Best Copy & Printing, Inc.  
Portalls II  
445 12<sup>th</sup> Street, NW  
Room CY-A257  
Washington, DC 20554  
(via email: fcc@bcpiweb.com)

  
Anette M. Garrity